



Items # 5 & 6

Bill 44 (2015)

Bill 46 (2015)

# HAWAII APPLESEED

## CENTER FOR LAW & ECONOMIC JUSTICE

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Testimony of Hawai'i Appleseed Center for Law and Economic Justice  
In Opposition to Bills 44 and 46  
Zoning and Planning Committee, Honolulu City Council  
Scheduled for Hearing Thursday, July 23, 2015, 9:00 AM

Thank you for the opportunity to testify in opposition to Bill 44, which prohibits, and Bill 46, which prohibits people from remaining on streambanks. We commend the Council for its significant investment in affordable housing and homeless service programs and hope that these will continue to be the focal point of our community's response to homelessness. However, we respectfully urge the Council to vote in opposition to these proposed sit-lie expansions because they are ultimately counterproductive to our shared goal of ending homelessness on Oahu.

Sit-lie bans have simply moved vulnerable people from place to place and not helped end homelessness. We have already seen that coercive measures to address homelessness have not made the problem go away. There is still no evidence that the sit-lie bans, nor the stored property and sidewalk nuisance ordinances, have done anything to significantly reduce the number of unsheltered individuals and families. These bans only shift people from place to place, and this futile game of cat and mouse will only continue to result in increased costs associated with police enforcement, the criminal justice system, and incarceration. This upheaval has also made it more difficult for service providers to locate clients, build trust, and engage in outreach to provide desperately-needed services.

Our goal should not be making life so difficult for unsheltered people that they will be forced to move into shelters or else face incarceration. Unsheltered individuals and families are the victims of poverty, poor physical and mental health, and traumas including sexual assault and domestic violence. They are in need of genuine compassion, permanent housing, and services—not jail time.

There is still an inadequate supply of shelter for the individuals and families who will be affected by this expansion. Overall capacity in emergency shelters and other forms of housing falls dramatically short of the number of unsheltered individuals and families on Oahu, even with the creation of additional shelters or other temporary and permanent housing options. While there has been meaningful progress toward housing those experiencing homelessness, there will not be sufficient shelter to meet the needs of these individuals and families in the foreseeable future.

These bills are highly subject to legal challenge. Expanding sit-lie bans on public malls does not meet the stated legislative intent of Bill 44. Public malls are wide enough that pedestrians can readily navigate around people sitting or lying on the mall, especially if they are sitting or lying on the sides of

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the mall. No safety issues are presented for pedestrians due to the width of the mall. Moreover, public malls already contain numerous obstructions that pedestrians must navigate around, including benches, planters, trees, garbage bins, outdoor dining tables, newspaper stands, and lightposts. This ban is not narrowly tailored to actually address obstructions, but to remove people experiencing homelessness from public spaces because others wish to avoid their presence. A justification based on this personal preference is not a rational basis for targeting people experiencing homelessness.

Expanding sit-lie bans to cover areas outside of business districts in Bill 46 also makes it clear that these bans target people experiencing homelessness, since they cannot be justified by the need to promote commercial activity. There is precedent that the criminalization of homelessness without adequate shelter space has been struck down as cruel and unusual punishment, and we lack adequate shelter space for families.

Constructive solutions do exist. We respectfully encourage you to consider additional constructive options that will actually help unsheltered individuals in the short term as the City implements permanent solutions. For example, community-based policing is a successful approach to stopping criminal activity while building trust with people experiencing homelessness. Additional day and resource centers can help these individuals get their lives back on track. But ultimately, permanent housing is the fundamental solution. A shallow rental subsidy program is one option that could be used to help unsheltered families right away. Such a program would provide a small rental subsidy to working families that could help get them afford permanent market housing. Such an expenditure would be a cost-efficient option with an immediate impact. The Council has also wisely invested significant funds in affordable housing.

Rather than continuing to deviate from national best practices and enact these expansions, we should build on the solid foundation laid by the Council over the last two budgets, with funding for Housing First, supportive services, and the development of affordable housing. This is a more compassion and cost efficient use of public resources.

Thank you again for the opportunity to testify on these bills. The arguments against criminalization as a general principle have been raised many times, but it bears repeating that criminalization is the most expensive and least effective strategy to address to homelessness. This has held true on Oahu, as we have not seen any reductions in homelessness as a result of sit-lie bans. Therefore we strongly urge you to vote in opposition to Bills 44 and 46, and instead continue to focus on the proven, compassionate solutions passed by the Council that will actually help to end homelessness.